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(3) *Hearing by examination of documents.* If the hearing official determines that an oral hearing is not necessary, he or she shall make the determination based upon an examination of the documents.

(d) *Record.* The hearing official shall maintain a summary record of any hearing conducted under this section.

(e) *Decision.* (1) The hearing official shall issue a written opinion stating his or her decision, based upon all evidence and information developed during the hearing, as soon as practicable after the hearing, but not later than 60 calendar days after the date on which the request was received by OFHEO, unless the hearing was delayed at the request of the employee, in which case the 60-day decision period shall be extended by the number of days by which the hearing was postponed.

(2) The decision of the hearing official shall be final and is considered to be an official certification regarding the existence and the amount of the debt for purposes of executing salary offset under 5 U.S.C. 5514. If the hearing official determines that a debt may not be collected by salary offset, but OFHEO finds that the debt is still valid, OFHEO may seek collection of the debt through other means in accordance with applicable law and regulations.

(f) *Content of decision.* The written decision shall include:

(1) A summary of the facts concerning the origin, nature, and amount of the debt;

(2) The hearing official's findings, analysis, and conclusions; and

(3) The terms of any repayment schedules, if applicable.

(g) *Failure to appear.* If, in the absence of good cause shown, such as illness, the employee or the representative of OFHEO fails to appear, the hearing official shall proceed with the hearing as scheduled, and make his or decision based upon the oral testimony presented and the documentation submitted by both parties. At the request of both parties, the hearing official may schedule a new hearing date. Both parties shall be given reasonable notice

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of the time and place of the new hearing.

[64 FR 34969, June 30, 1999. Redesignated and amended at 65 FR 81328, Dec. 26, 2000]

§ 1704.24 Certification where OFHEO is the creditor agency.

(a) *Issuance.* OFHEO shall issue a certification in all cases where the hearing official determines that a debt exists or the employee admits the existence and amount of the debt, as for example, by failing to request a hearing.

(b) *Contents.* The certification must be in writing and state:

(1) That the employee owes the debt;

(2) The amount and basis of the debt;

(3) The date of the Federal Government's right to collect the debt first accrued;

(4) The date the employee was notified of the debt, the action(s) taken pursuant to OFHEO's regulations, and the dates such actions were taken;

(5) If the collection is to be made by lump-sum payment, the amount and date such payment will be collected;

(6) If the collection is to be made in installments, the amount or percentage of disposable pay to be collected in each installment and, if OFHEO wishes, the desired commencing date of the first installments, if a date other than the next officially established pay period; and

(7) A statement that OFHEO's regulation on salary offset has been approved by the Office of Personnel Management pursuant to 5 CFR part 550, subpart K.

§ 1704.25 Voluntary repayment agreements as alternative to salary offset where OFHEO is the creditor agency.

(a) *Proposed repayment schedule.* In response to a Notice of Intent, an employee may propose to repay the debt voluntarily in lieu of salary offset by submitting a written proposed repayment schedule to OFHEO. Any proposal under this section must be received by OFHEO within 15 calendar days after receipt of the Notice of Intent.

(b) *Notification of decision.* In response to a timely proposal by the employee, OFHEO shall notify the employee whether the employee's proposed repayment schedule is acceptable.

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OFHEO has the discretion to accept, reject, or propose to the employee a modification of the proposed repayment schedule.

(1) If OFHEO decides that the proposed repayment schedule is unacceptable, the employee shall have 15 calendar days from the date he or she received notice of the decision in which to file a request for a hearing.

(2) If OFHEO decides that the proposed repayment schedule is acceptable or the employee agrees to a modification proposed by OFHEO, an agreement shall be put in writing and signed by both the employee and OFHEO.

§ 1704.26 Special review where OFHEO is the creditor agency.

(a) *Request for review.* (1) An employee subject to salary offset or a voluntary repayment agreement may, at any time, request a special review by OFHEO of the amount of the salary offset or voluntary repayment, based on materially changed circumstances, including, but not limited to, catastrophic illness, divorce, death, or disability.

(2) The request for special review must include an alternative proposed offset or payment schedule and a detailed statement, with supporting documents, that shows why the current salary offset or payments result in extreme financial hardship to the employee and his or her spouse and dependents. The detailed statement must indicate:

- (i) Income from all sources;
- (ii) Assets;
- (iii) Liabilities;
- (iv) Number of dependents;
- (v) Expenses for food, housing, clothing, and transportation;
- (vi) Medical expenses; and
- (vii) Exceptional expenses, if any.

(b) *Evaluation of request.* OFHEO shall evaluate the statement and supporting documents and determine whether the original offset or repayment schedule imposes extreme financial hardship on the employee. OFHEO shall notify the employee in writing within 30 calendar days of such determination, including, if appropriate, a revised offset or payment schedule. If the special review results in a revised offset or repayment

schedule, OFHEO shall provide a new certification to the paying agency.

§ 1704.27 Notice of salary offset where OFHEO is the paying agency.

(a) *Notice.* Upon issuance of a proper certification by OFHEO (for debts owed to OFHEO) or upon receipt of a proper certification from another creditor agency, OFHEO shall send the employee a written notice of salary offset.

(b) *Content of notice.* Such written notice of salary offset shall advise the employee of the:

(1) Certification that has been issued by OFHEO or received from another creditor agency;

(2) Amount of the debt and of the deductions to be made; and

(3) Date and pay period when the salary offset will begin.

(c) If OFHEO is not the creditor agency, OFHEO shall provide a copy of the notice of salary offset to the creditor agency and advise the creditor agency of the dollar amount to be offset and the pay period when the offset will begin.

§ 1704.28 Procedures for salary offset where OFHEO is the paying agency.

(a) *Generally.* OFHEO shall coordinate salary deductions under this section and shall determine the amount of an employee's disposable pay and the amount of the salary offset subject to the requirements in this section. Deductions shall begin the pay period following the issuance of the certification by OFHEO or the receipt by OFHEO of the certification from another agency, or as soon thereafter as possible.

(b) *Types of collection.* (1) *Lump-sum payment.* If the amount of the debt is equal to or less than 15 percent of the employee's disposable pay, such debt ordinarily will be collected in one lump-sum payment.

(2) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any pay period will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee